

*Order Sheet*  
**IN THE HIGH COURT OF SINDH AT KARACHI**

**C.P. No.S-708 of 2025**

[Rizwanur Rehman v. Mst. Uzma and two others]

Petitioner : Through Mr.Aftab Ali Wassan, Advocate  
Respondents : Nemo.  
Date of Hg. & order : 02-09-2025.

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**ARSHAD HUSSAIN KHAN, J.-** Through instant Constitutional Petition, the petitioner has assailed the order dated **06.08.2025**, passed by the learned XVI- Family Judge, Karachi [Central], **in Execution Application No.39/2024**, arising out of the judgment dated **05.09.2022**, passed by XVI Family Judge, Karachi [Central] in Family Suit No.1425 of 2018, filed by Respondent No.1 namely, Mst. Uzma and others against the present petitioner and that judgment was subsequently modified in the **Family Appeal No.106 of 2022**, in favour of the respondents herein, vide judgment dated **11.10.2023**, passed by the VIth Additional District Judge Karachi [Central].

2. Concisely, respondent No.1/plaintiff instituted a Family Suit No.1425 of 2018 for restitution of conjugal rights, recovery of dower amount, dowry articles & maintenance as follows :

- A: To direct the Defendant to perform his conjugal rights towards the Plaintiffs No. 1.
- B: To direct the Defendant to pay to the Plaintiff No. 1 a sum of Rs.25000/- towards her dower amount.
- C: To direct the Defendant to handover to the Plaintiff No. 1 her dowry articles (as per list at Annexure-F) worth of Rs.8,45,200/ or in alternative to pay their equivalent value; and also pay to the Plaintiff No. 1 a sum of Rs.3,29,550/ being wedding expenses (as per list at Annexure-G).
- D: To direct the Defendant to pay to the Plaintiffs as follow:-

**For Plaintiff No. 1:**

Past Maintenance @Rs.41,348/month w.e.f. July 2016 to July 2018 and future maintenance at the same rate with 10% increase annually till such time the Plaintiff No. 1 is legally wedded wife of the Defendant.

**For Plaintiff No. 2:**

Past Maintenance of the minor Plaintiffs NO. 2 Rs.53,155/- per month & further maintenance at the same rate with 10% annual increase till such time the minor Plaintiffs No. 2 gets married.

**For Plaintiff No. 3:**

Past Maintenance of the minor Plaintiffs NO. 3 Rs.52,655/ per month & further maintenance at the same rate with 10% annual increase till such time the minor Plaintiffs No. 3 gets married.

Accommodation Expenses of the Plaintiffs:

An amount of Rs.35000/- per month including Rs.25,000/= monthly rent of First Floor, House No.B134, Hussain De'Silva Town, Block-P, North Nazimabad, Karachi w.e.f. June 2018 till such time the Defendant arranges a separate house for Plaintiffs.

E: To award costs of the suit.

F: Any other relief under the circumstances of the case.

3. Upon notice, the petitioner/defendant appeared before the learned trial court and filed a written statement wherein he categorically denied the claim of the respondent/plaintiff while stating that he has given divorce to the plaintiff/respondent No.1 and prayed for dismissal of the suit. Thereafter, the court framed the issues, recorded the evidence of the parties, and ultimately decreed the suit, vide the judgment of the learned trial court dated **05.09.2022**.

4. The aforesaid judgment and decree of the trial court were challenged by the petitioner in Civil Appeal No.105 of 2022, which was dismissed by the learned VI-Additional District Judge, Karachi [Central], thereby maintaining the judgment dated **05.09.2022** passed by the trial court, vide appellate judgment dated **11.10.2023**. The same judgment and decree were also assailed by respondent No.1, Mst. Uzma Rizwan, through Civil Appeal No.106 of 2022, which was disposed of by the learned VI-Additional District Judge, Karachi [Central], by modifying the trial court's judgment dated **05.09.2022** in her favour, vide appellate judgment dated **11.10.2023**.

5. Subsequently, upon the filing of Family Execution No.39 of 2024 by Mst. Uzma, the learned Executing Court allowed the execution application and directed the decree-holder to submit the schedule of property of the petitioner/judgment-debtor. The petitioner has, therefore, invoked the constitutional jurisdiction of this Court through the present petition, directly assailing the order dated 06.08.2025 and, indirectly, the judgment and decree passed by the learned trial court in Family Suit No.1425 of 2018 as well as the appellate judgments rendered in Family Appeals No.105 and 106 of 2022, which are already the subject matter of Constitutional Petitions No.1329 and 1300 of 2023 pending before this court.

6. At the very outset learned counsel for the petitioner was asked to satisfy this Court on the question of maintainability of the present petition as the petitioner himself has earlier filed constitutional petitions viz. C.P. No.S-1329/2023 regarding the same subject matter of the instant proceedings, which are pending adjudication.

7. Learned counsel for the petitioner contended that the impugned order dated 06.08.2025, passed by the learned Executing Court, and was rendered in a hasty and mechanical manner, without proper consideration of the facts and the spirit of the law. He argued that the execution application filed by the decree-holder is not maintainable in law, being vague, ambiguous, and lacking the requisite particulars, and that the decree-holder has approached the court with unclean hands by concealing material facts and misrepresenting the true position. It was further urged that there are serious discrepancies in the computation of the claimed amount, which the petitioner disputes, and that the Executing Court failed to address the detailed objections and documents filed in this regard, rendering the impugned order devoid of proper reasoning. Learned counsel maintained that the order was passed ex-parte, in violation of the petitioner's fundamental rights, and that the judgments of the trial and appellate courts have not yet attained finality, as Constitutional Petitions No.1329 and 1330 of 2023 are pending before this Court. He has submitted that the appellate court, while modifying the original judgment to grant a monthly increase in the maintenance, committed material illegality by misreading and non-reading of evidence, and that both courts below erred in determining the maintenance period and return of dowry articles contrary to the record. According to the learned counsel, the concurrent findings are unsustainable in law, as both courts failed to apply proper judicial mind and rendered decisions in an unduly hasty manner. He, has therefore, prayed that this Court, in the exercise of its constitutional jurisdiction, set aside the impugned order dated 06.08.2025, passed by the learned XVI-Family Judge, Karachi (Central), in Execution Application No.39 of 2024. Reliance is placed upon the case

reported as 1991 MLD 1594, 1992 SCMR 1273, PLD 2025 SC 434, 2008 SCMR 505 and PLD 2009 SC 760.

8. I have heard learned counsel for the petitioner and examined the material available on record.

From a perusal of the record and the submissions advanced by learned counsel for the petitioner, it is apparent that the petitioner, through the present constitutional petition, seeks to assail the concurrent findings of fact recorded by both the trial and appellate courts. It is, however, noted that the petitioner has already invoked the constitutional jurisdiction of this court through C.P. No.S-1329 and C.P. No.S-1330 of 2023, arising out of the same judgment and involving an identical subject matter, which are presently pending adjudication. The filing of the instant petition, therefore, amounts to instituting parallel proceedings on the same issue, which is impermissible in law and constitutes an abuse of the process of the Court.

9. It is a well-established principle that an executing court cannot go behind a decree or re-examine the merits of a case once the decree has attained finality that is, when it has neither been set aside in appeal nor revision. The executing court's role is limited to enforcement of the decree and it cannot revisit issues already adjudicated. The petitioner's objections regarding valuation of dowry articles, calculation of maintenance, and other factual disputes are therefore barred by the principle of finality and fall outside the scope of execution proceedings. No jurisdictional defect, illegality, or denial of due process has been shown to justify interference under Article 199 of the Constitution, and the impugned order was passed within the executing court's proper jurisdiction, leaving no legal basis for re-opening concluded issues under the guise of constitutional jurisdiction.

10. From a perusal of the record, it is manifest that the petitioner has failed to satisfy the decree, and the appeal preferred by him against the judgment and decree of the learned trial court also stood dismissed. Yet, by dragging the matter from one forum to another, particularly in a family dispute, the petitioner has indulged in

vexatious litigation, thereby causing undue delay in the enforcement of lawful rights and adding to the already heavy burden of the courts. Such practice has been strongly deprecated by the Supreme Court of Pakistan, which has consistently emphasized that family matters must be decided and concluded with utmost expedition in order to protect the rights and dignity of the parties, especially women and children<sup>1</sup>.

11. In view of the foregoing, it is evident that the impugned orders were passed by the courts below strictly in accordance with law and upon due consideration of the material available on the record. The petitioner's counsel has not been able to demonstrate any illegality, material irregularity, or jurisdictional defect so as to justify interference by this Court in its constitutional jurisdiction. The case law cited on behalf of the petitioner is distinguishable on facts and renders no assistance. Consequently, the instant constitutional petition, being devoid of merit, is hereby dismissed in limine.

JUDGE

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<sup>1</sup> Shahzad Amir Farid v. Mst. Sobia Amir Farid [2024 SCMR 1292]